

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

MILTON MARKS CONFERENCE CENTER
455 GOLDEN GATE AVENUE
LOWER LEVEL - MONTEREY ROOM
SAN FRANCISCO, CALIFORNIA 94102

DEPARTMENT OF FINANCE
STATE CAPITOL, ROOM 1145
SACRAMENTO, CALIFORNIA 95814

ADDITIONAL LOCATION PROVIDED FOR THE PUBLIC
CALIFORNIA STATE LANDS COMMISSION
100 HOWE AVENUE, SUITE 100 SOUTH
SACRAMENTO, CALIFORNIA 95825

FRIDAY, MAY 11, 2018
2:00 P.M.

JAMES F. PETERS, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

A P P E A R A N C E S

COMMISSION MEMBERS:

Ms. Betty T. Yee, State Controller, Chairperson

Mr. Gavin Newsom, Lieutenant Governor

Mr. Michael Cohen, Director of Department of Finance,
represented by Ms. Jacqueline Wong-Hernandez

STAFF:

Ms. Jennifer Lucchesi, Executive Officer

Mr. Mark Meier, Chief Counsel

ATTORNEY GENERAL:

Mr. Andrew Vogel, Deputy Attorney General

ALSO PRESENT:

Ms. Mary Bernier, Interfaith Peace Coalition

Mr. Charles Davidson

Ms. Nancy Rieser

I N D E X

| | PAGE |
|---|---------|
| I 2:00 P.M. - OPEN SESSION | 1 |
| II CONFIRMATION OF MINUTES - NONE | |
| III EXECUTIVE OFFICER'S REPORT - NONE | |
| IV PUBLIC COMMENT | 2, 4 |
| V COMMISSIONERS' COMMENTS | |
| VI CLOSED SESSION: AT ANY TIME DURING THE MEETING THE COMMISSION MAY MEET IN A SESSION CLOSED TO THE PUBLIC TO CONSIDER THE FOLLOWING PURSUANT TO GOVERNMENT CODE SECTION 11126: | 4 |
| A. LITIGATION. | |

The Commission may consider pending and possible litigation pursuant to the confidentiality of attorney-client communications and privileges provided under Government Code section 11126, subdivision (e).

1. The Commission may consider pending and possible matters that fall under Government Code section 11126, subdivision (e)(2)(A), concerning adjudicatory proceedings before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the Commission is a party. Such matters currently include the following:

California Coastkeeper Alliance,
California Coastal Protection v.
California State Lands Commission

California State Lands Commission v.
City and County of San Francisco

In re: Rincon Island Limited
Partnership Chapter 11

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In re: Venoco, LLC, Bankruptcy
Chapter 11

Little Beaver Land Company, Inc. v.
State of California

Martins Beach 1, LLC and Martins Beach
2, LLC v. Effie Turnbull-Sanders, et al.

Nowell Investment Company v. State of
California; California State Lands
Commission

Redevelopment Agency of San Francisco
v. John W. Lebolt, et al.

San Francisco Baykeeper v. California
State Lands Commission

San Francisco Baykeeper v. California
State Lands Commission II

San Joaquin River Exchange Contractors
Water Authority v. State of California;
State Lands Commission

Seacliff Beach Colony Homeowners
Association v. State of California,
et al.

Sierra Club, et al. v. City of Los
Angeles, et al.

SLPR, LLC, et al. v. San Diego Unified
Port District, California State Lands
Commission

SOS Donner Lake v. State of
California, et al.

United States v. 1.647 Acres

United States of America v. State of
California, et al.

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United States v. Walker River Irrigation
District, et al.

World Business Academy v. California
State Lands Commission

2. The Commission may consider matters
 that fall under Government Code
 section 11126, subdivision (e)(2)(b),
 under which;
 - a. A point has been reached where,
 in the opinion of the Commission,
 on the advice of its legal counsel,
 based on existing facts and
 circumstances, there is a
 significant exposure to litigation
 against the Commission, or
 - b. Based on existing facts and
 circumstances, the Commission is
 meeting only to decide whether a
 closed session is authorized
 because of a significant exposure
 to litigation against the
 Commission.
 3. The Commission may consider matters
 that fall under Government Code
 section 11126, subdivision (e)(2)(C),
 where, based on existing facts and
 circumstances, the state body has
 decided to initiate or is deciding
 whether to initiate litigation.
- B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS.
- The Commission may consider matters that fall
under Government Code section 11126, subdivision
(c)(7), under which, prior to the purchase sale,
exchange, or lease of real property by or for the
Commission, the directions may be given to its
negotiators regarding price and terms of payment
for the purchase, sale, exchange, or lease. At
the time of publication of this Agenda, it is not
anticipated that the Commission will discuss any

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such matters; however, at the time of the
scheduled meeting, a discussion of any such
matter may be necessary or appropriate.

Adjournment 15

Reporter's Certificate 16

1 P R O C E E D I N G S

2 COMMISSIONER YEE: Thank you very much. I'm
3 State Controller Betty Yee, and I call this special
4 meeting of the State Lands Commission to order.

5 Ms. Lucchesi, as this is a telephone conference
6 meeting, will you call the roll of the Commissioners.

7 EXECUTIVE OFFICER LUCCHESI: Chair Yee?

8 CHAIRPERSON YEE: Here.

9 ADMINISTRATIVE ASSISTANT LUNETTA: Commissioner
10 Newsom?

11 COMMISSIONER NEWSOM: Here.

12 ADMINISTRATIVE ASSISTANT LUNETTA: Commissioner
13 Wong-Hernandez.

14 ACTING COMMISSIONER WONG-HERNANDEZ: Here.

15 EXECUTIVE OFFICER LUCCHESI: Chair Yee, since we
16 are doing a tele-conference today, before each individual
17 speaks, I ask that everyone identify themselves for the
18 court reporter so that he can be accurate in his
19 transcription. I'd also like to identify the members of
20 staff of the Commission and the Attorney General's office
21 present on this telephonic meeting.

22 In San Francisco with Chair Yee and Commissioner
23 Newsom is Executive Officer Jenny Lucchesi, Chief Counsel
24 Mark Meier, Deputy Attorney General Andrew Vogel, Deputy
25 Attorney General John Killeen, Supervising Deputy attorney

1 Tamar Pachter, and the Lieutenant Governor's Chief of
2 Staff Rhys Williams, and Environmental Scientist Sloane,
3 and -- Viola. I just had a little bit of a break in mind.

4 At the Department of Finance in Sacramento at the
5 State Capitol is Commissioner Jacqueline Wong-Hernandez
6 win representing Finance, Assistant Executive Officer
7 Colin Connor, and Staff Attorney Patrick Huber. And at
8 the State Lands Commission office in Sacramento is
9 Executive Assistant Kim Lunetta, Assistant Chief Counsel
10 Pam Griggs, Chief of our External Affairs Division, Sheri
11 Pemberton, and our court reporter.

12 ACTING COMMISSIONER BAKER: Do we need to put me?

13 CHAIRPERSON YEE: Okay. Thank you, Ms. Lucchesi.

14 The first item of business will be public
15 comment.

16 Are there any members of the public that wish to
17 address the Commission during the public comment period?

18 EXECUTIVE OFFICER LUCCHESI: We do not have any
19 members of the public here in San Francisco.

20 Are there any public commenters at the State
21 Capitol in the Department of Finance?

22 ACTING COMMISSIONER WONG-HERNANDEZ: No, we
23 didn't have any one from the public here wanting to
24 comment.

25 EXECUTIVE OFFICER LUCCHESI: Great. And just for

1 the record, I want to acknowledge that the Controller's
2 Sea Grant Fellow, Flower, is at the State Capitol with
3 Commissioner Wong-Hernandez. And at the Sacramento State
4 Lands Commission office are there any public commenters?

5 ADMINISTRATIVE ASSISTANT LUNETTA: No, but I did
6 want to -- this is Kim Lunetta. I wanted to let you know
7 that Anne Baker is here.

8 EXECUTIVE OFFICER LUCCHESI: Great. Thank you.

9 CHAIRPERSON YEE: Thank you.

10 ADMINISTRATIVE ASSISTANT LUNETTA: Oh, and Ben
11 Johnson, Staff Attorney.

12 EXECUTIVE OFFICER LUCCHESI: Thank you.

13 ACTING COMMISSIONER BAKER: And a member of the
14 public.

15 ADMINISTRATIVE ASSISTANT LUNETTA: And a member
16 of the public.

17 EXECUTIVE OFFICER LUCCHESI: I'm sorry. Kim?

18 ADMINISTRATIVE ASSISTANT LUNETTA: We have a
19 member of the public here, but at this time --

20 EXECUTIVE OFFICER LUCCHESI: Oh.

21 ADMINISTRATIVE ASSISTANT LUNETTA: Yes, but they
22 do not wish to speak at this time.

23 CHAIRPERSON YEE: Okay. Welcome. Thank you.
24 Thank you.

25 So seeing and hearing no members of the public

1 who wish to address the Commission, that concludes the
2 open meeting, and we will now adjourn into closed session.

3 So I will ask the members of the public to please
4 clear the room in which you're located.

5 (Off record: 2:03 p.m.)

6 (Thereupon the meeting recessed
7 into closed session.)

8 (Thereupon the meeting reconvened
9 in open session.)

10 (On record: 2:18 p.m.)

11 CHAIRPERSON YEE: The Commission will reconvene
12 in open session. The Commission did meet in closed
13 session to discuss pending litigation. And now we will
14 turn our attention to public comment. And we have two
15 speakers who have signed in to speak.

16 Let me first call up Nancy Rieser.

17 MS. RIESER: There's going to be two of us.
18 Charlie is going to follow me, a tag team.

19 I'm not sure how many minutes we have allotted.

20 CHAIRPERSON YEE: You have three minutes. And we
21 have a Commissioner in a remote location in Sacramento and
22 one on the phone, so if you could speak close to the
23 phone.

24 MS. RIESER: Okay. My name is Nancy Rieser. I'm
25 a member of a group of concerned residents who live near

1 the State Lands Commission Selby Slag Remediation Project
2 located in Contra Costa County. The Commission -- the
3 Lands Commission is an 80 percent co-landowner. And the
4 Phillips 66 is -- co-owns the remaining 20 percent.

5 We have all been active in the EIR process, but
6 we feel that our concerns are serious enough to start a
7 parallel dialogue with the Commission. The Selby Slag is
8 2.5 million tons of legacy toxic materials from the
9 refining process that's in the slag located in Crockett
10 along San Pablo Bay near the mouth of the Carquinez Strait
11 in Contra Costa County. And it's also adjacent to the
12 Rodeo Phillips 66 refinery.

13 The 66-acre site is currently asphalted over.
14 Yet, offshore there is 4,450 feet of uncontained slag
15 material fully opened to bay waters, and continuously
16 subject two-way water intrusion. We believe that the
17 project is not in the best interest of the nearby
18 communities, already overburdened by pollutants, including
19 toxic airborne and aquatic plumes released during
20 construction.

21 The slag's pollutants are derived from 100 years
22 of historic metals refining, including toxic heavy metals
23 such as arsenic, cadmium, nickel, and lead. And I think
24 it's important to note that the draft EIR minimized the
25 proximity of the residents to the slag. They said it was

1 two miles away from Crockett, and, in fact, the nearest
2 neighborhood is a half a mile away.

3 And those slag elements, once the asphalt is
4 removed, are going to be blowing into our kitchen and
5 bedroom windows. Got it.

6 The DT -- the DTSC's proposed sheet metal seawall
7 embedded in bay mud falls woefully short of protecting bay
8 waters, particularly in the long-term being subject to
9 exposure from highly acidic slag groundwater remaining
10 from the legacy sulfur acid production. The acid -- the
11 acidic groundwater causes the continued liberation of
12 heavy metals into the bay waters. The legacy acid
13 production site is located on Phillips 66's 20 percent
14 portion on the slag property, i.e. the most eastern
15 portion of the property.

16 The DEIR fails to acknowledge Phillips 66's
17 once-through cooling system. It's a salt water intake
18 system at the base of the marine offshore terminal
19 located -- is that time.

20 CHAIRPERSON YEE: I think that might be the
21 timer.

22 MS. RIESER: Can I -- can I just finish my
23 sentence, is that all right?

24 CHAIRPERSON YEE: Yes.

25 MS. RIESER: Okay. Thank you so much.

1 That once-through cooling system emits -- sucks
2 up and emits on the other side of the point. Forty
3 million gallons of salt water, and that refineries heated
4 salt water outflow goes into the internal mud flats one
5 half mile away from southeast -- southeast towards the
6 town of Rodeo.

7 And -- and I am going to let Charlie continue.

8 CHAIRPERSON YEE: Thank you, Ms. Rieser.

9 Next, speaker is Charles Davidson.

10 MR. DAVIDSON: I live in Hercules and also fairly
11 close to the site. The once-through cooling system's
12 shoreline outflow is known by State agencies to redeposit
13 Selby Slag's nickel, copper, and dioxins. It's a
14 not-so-pretty picture. The once-through cooling salt
15 water intake location is complicated by the presence of,
16 one, Selby Slag's ongoing toxic metals release; two, the
17 toxic plume releases expected during the Selby project's
18 dredging operation; and three, the potential for greatly
19 expanded marine terminal activity by Phillips 66.

20 The U.S. EPA and the San Francisco Regional Water
21 Quality Control Board have classified the refinery's
22 once-through cooling discharger as a major discharger,
23 because it releases nearly 40 million gallons per day of
24 heated OTC waste waters. We believe that the Selby Slag
25 DEIR does not take into account the scale of the

1 concurrent Phillips 66 refinery expansion plan located
2 immediately adjacent to the slag, namely the marine
3 terminal permit revision or expansion project DEIR, which
4 will double the amount of crude oil delivery to their work
5 by up to nearly the average of 131 barrels per day, which
6 is a four-fold increase in crude output since 2012, and is
7 equivalent to the refinery's total daily throughput.

8 The Selby Slag Project does not consider
9 potential through-to use of the site, and how future heavy
10 industrial operations could damage the site or any nearby
11 Lands Commission properties.

12 Toxic plumes of slag material will be released
13 into the refinery's adjacent once-through cooling system
14 during the project dredging, and the Phillips 66 marine
15 terminal permit revision project for the expansion is the
16 lead agency as the Bay Area Air Quality Management
17 District. The comment period ended July 23rd, 2017.

18 CHAIRPERSON YEE: Thank you, Mr. Davidson.

19 EXECUTIVE OFFICER LUCCHESI: Thank you.

20 MR. DAVIDSON: Thank you very much.

21 CHAIRPERSON YEE: Jennifer, anything in response?

22 EXECUTIVE OFFICER LUCCHESI: Yeah, I would. We
23 do have a regularly scheduled Commission meeting on June
24 21st in the Sonoma County area. The specific location is
25 still being confirmed, but we do plan on that agenda to

1 have an informational item on the Selby Slag Remediation
2 Project, so we can both -- staff can walk through the
3 history and the context, and then it will also provide an
4 opportunity for the Commission to hear from members of the
5 community in a more traditional public meeting
6 environment.

7 MS. RIESER: Okay. And again, the public
8 comments will be -- we need plan to advance. Public
9 comments will be kept to three minutes per person.

10 EXECUTIVE OFFICER LUCCHESI: Yes.

11 (Laughter.)

12 EXECUTIVE OFFICER LUCCHESI: We're pleased --
13 contact our office ahead of that meeting, and we can walk
14 through all the logistics and --

15 MS. RIESER: And we'll have PowerPoints that
16 we'll give you as well, and printed materials. Thank you
17 so much.

18 CHAIRPERSON YEE: Thank you.

19 COMMISSIONER NEWSOM: We appreciate your time.
20 Thank you very much.

21 MS. RIESER: We're sorry we're late. They sent
22 us to three different buildings.

23 (Laughter.)

24 COMMISSIONER NEWSOM: You're right on time.
25 Thank you.

1 MS. RIESER: We cam down the rabbit hole and we
2 found you.

3 (Laughter.)

4 MS. RIESER: Take care. Have a wonderful day

5 EXECUTIVE OFFICER LUCCHESI: Thank you.

6 CHAIRPERSON YEE: Thank you. Thank you.

7 We have another speaker of the public.

8 Mary Bernier with Interfaith Peace Coalition.

9 Welcome.

10 MS. BERNIER: I have another excuse for why I'm
11 late. I saw a derm doctor just for a regular check, and
12 she burned my nose. I'm really fine. But I'm working
13 with Swing Left going out into in San Joaquin Valley every
14 weekend. And I might stay out there, and I need to get
15 rid of this.

16 CHAIRPERSON YEE: Uh-huh. Yeah.

17 MS. BERNIER: I had a little letter here. This
18 is regarding the Docktown, the houseboat and floating home
19 community

20 CHAIRPERSON YEE: Hang on one second, can
21 Sacramento hear?

22 ACTING COMMISSIONER WONG-HERNANDEZ: We can hear.
23 We're here in the Capitol. Kim, can you guys hear?

24 ADMINISTRATIVE ASSISTANT LUNETTA: It would be
25 great if she could move a little close to the conference

1 phone. It's a little difficult to hear.

2 MS. BERNIER: My name is Mary Bernier,
3 B-e-r-n-i-e-r. And we have a small group called the
4 Interfaith Peace Coalition that's been active since the
5 sixties against the war Vietnam and we're still active.
6 So there's a heck of a lot of heroes.

7 And we've gotten very interested in the Docktown
8 thing. So I have three minutes. I'm just going to start
9 reading this little letter.

10 CHAIRPERSON YEE: Sure.

11 MS. BERNIER: The letter is going to our Redwood
12 City Council Members, because in Redwood City, because the
13 State Lands Commission has concern about public having use
14 of all waterways, especially between the low and high
15 tides, this Docktown houseboat community is sitting in the
16 mud in the low tide, and bobbing around in the high.

17 So we're focusing in to the Redwood City City
18 Council. And we're running around in a slow process
19 getting boards of the churches and nonprofits to sign on.
20 But Habitat for Humanity, the director of construction,
21 Erin Colton, was willing to look at all of the photos we
22 have that I never brought, because I didn't think -- I had
23 no idea that you guys would be here. And she's interested
24 in pursuing. She sent us the Cari Pang Chen from
25 Rebuilding Together Peninsula and we have a quote from

1 Cari in here.

2 Dear City Council members, we thank you for the
3 efforts you have made to create more housing and to
4 protect renters. We respectfully ask you to consider
5 allowing our local non-profit agencies and faith
6 communities to remodel the city's 25 empty floating homes
7 and approximately 10 livable boats at Docktown Marina
8 into:

9 One, low-income housing; two, group homes for
10 special populations in Redwood City; three, homeownership
11 opportunities to residents with limited incomes; four,
12 space to further the work of local nonprofits that serve
13 low-income members of our community.

14 Rebuilding Together Peninsula would consider
15 assisting with some of the renovations as part of their
16 repair programs for low-income homeowners and community
17 facilities.

18 Nineteen of the floating homes are two, a few,
19 even three stories high situated on platforms. Their
20 owners sold them to the city, because there was no space
21 in other marinas. The cost of moving them to land was
22 prohibitive. They will either be sold for a nominal
23 amount or demolished. Half of the 10 boats are large
24 enough to provide homes for small families. Actually,
25 they already have been.

1 Please support legislation similar to the
2 California bill proposed in 2016 with the same
3 restrictions. It would have allowed Docktown Marina to
4 remain for 15 more years. The California State Lands
5 Commission supported the legislation at that time, and we
6 hope to have your support again. That's your, the city
7 council, as well as State Lands.

8 Docktown represents a vital source of much needed
9 space for low-income housing and nonprofit services in our
10 community. We have an opportunity to convert these homes
11 for specific uses rather than simply eliminate them
12 completely. Docktown does not permit the public from
13 accessing the waterfront. Three waterfront parts in
14 Redwood City that few residents visit, they're on
15 beautiful wide expanses of water. I've given photos of
16 that a year or so ago. We'll do it again.

17 Docktown is on a narrow portion of the Redwood
18 Creek that egrets walk across in many places at low tide.
19 The developer who is building 131 townhomes next door,
20 Strada Investment Group, has no objection to the Docktown
21 marina remaining.

22 Please delay the deadline -- this is to the city
23 council. Please delay the deadline to remove the last
24 residents, most of whom are poor and cannot find other
25 housing - it's a little more than a dozen - until the

1 feasibility of this remodeling proposal is evaluated.

2 Thank you for your consideration. We look
3 forward to receiving each of your responses.

4 CHAIRPERSON YEE: Thank you very much. And we
5 really appreciate you bringing that forward to us.
6 Obviously, the matter is before the City of Redwood City,
7 but we appreciate you keeping us up-to-date on --

8 MS. BERNIER: Okay.

9 CHAIRPERSON YEE: -- the plans going forward.

10 MS. BERNIER: They continually just say it's
11 because State Lands says -- they use the word illegal, but
12 we have -- because we're the interfaith community.

13 CHAIRPERSON YEE: Thank you for being here.

14 COMMISSIONER NEWSOM: Thank you.

15 MS. BERNIER: Good luck

16 CHAIRPERSON YEE: Thank you.

17 All right. Are there other members of the public
18 who wish to address the Commission?

19 Seeing none here in San Francisco.

20 In Sacramento?

21 ACTING COMMISSIONER WONG-HERNANDEZ: None here in
22 the Capitol.

23 ADMINISTRATIVE ASSISTANT LUNETTA: None here in
24 the Sacramento office.

25 CHAIRPERSON YEE: Okay. Very well.

1 Seeing no other business coming before the
2 Commission, this meeting is adjourned.

3 Thank you all very much.

4 (Thereupon the California State Lands
5 Commission meeting adjourned at 2:32 p.m.)
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1 C E R T I F I C A T E O F R E P O R T E R

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing California State Lands Commission Skype meeting
6 was reported in shorthand by me, James F. Peters, a
7 Certified Shorthand Reporter of the State of California;

8 That the said Skype proceedings was taken before
9 me, in shorthand writing, and was thereafter transcribed
10 to the best of my ability with intermittent Skype
11 connection, under my direction, by computer-assisted
12 transcription.

13 I further certify that I am not of counsel or
14 attorney for any of the parties to said meeting nor in any
15 way interested in the outcome of said meeting.

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 this 24th day of May, 2018.

18
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20 
21
22

23 JAMES F. PETERS, CSR
24 Certified Shorthand Reporter
25 License No. 10063